



MILPITAS PLANNING COMMISSION STAFF REPORT

November 9, 2016

APPLICATION: 1316 South Main Street – Site Development Permit (P-SD14-0021), Conditional Use Permit (P-UP14-0022), Tentative Tract Map (P-MT14-0005) and Environmental Assessment (P-EA16-0007). A request for a Site Development Permit, Conditional Use Permit, Tentative Tract Map, and Environmental Assessment to allow the construction of 18 residential condominium units on approximately 0.4 acres within a four-story structure.

RECOMMENDATION: Staff recommends that the Planning Commission adopt Resolution No. 16-037 recommending approval of a Site Development Permit (P-SD14-0021), Conditional Use Permit (P-UP14-0022), Tentative Tract Map (P-MT14-0005) and Environmental Assessment (P-EA16-0007) the project to the City Council, subject to the attached Conditions of Approval.

LOCATION:
Address/APN: 1316 South Main Street (APN 086-23-006)
Area of City: South of Capitol Avenue, west of Southern Pacific Railroad and east of South Main Street

PEOPLE:
Project Applicant: George Zhang
Consultant(s): George Zhang
Property/Business Owner: George Zhang
Project Planner: Cecilia Jaroslowsky, Contract Planner / Michael Fossati, Senior Planner

LAND USE:
General Plan Designation: Very High Density Transit Oriented Residential
Zoning District: Multi-Family Residential, Very High Density (R4)
Overlay District: Transit Overlay District (TOD)
Specific Plan: Transit Area Specific Plan (TASP)
Sub District: McCandless-Centre Point Sub-Area of the TASP
Site Area: 0.4 acres

ENVIRONMENTAL: Exempt pursuant to Sections 15183 of the California Environmental Quality Act (CEQA) and California Public Resources Code Section 21155.4.

EXECUTIVE SUMMARY

The applicant is requesting a Site Development Permit, Conditional Use Permit, Tentative Tract Map, and Environmental Assessment to allow the construction of 18 residential condominiums in one, four-story structure, totaling 33,310 square feet, to include at grade parking. The project would also include private and shared open and recreational spaces including a central courtyard, open to all four levels of the building and private patios/balconies, on-site parking, landscaping and other associated site improvements.

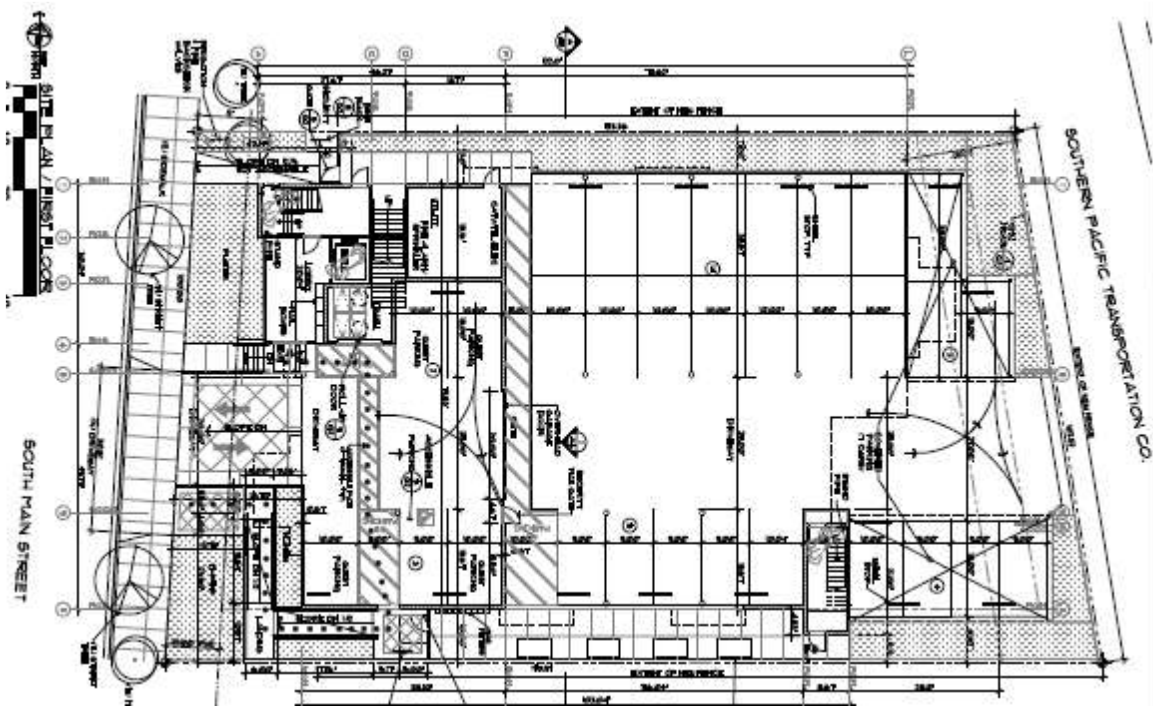
Figure 1
Project Vicinity Map



Figure 2
McCandless-Centre Point Sub-Area of the TASP



Figure 3
Site Plan



BACKGROUND

History

On November 3, 2014, an application was submitted by the project applicant, George Zhang, to allow the demolition of two existing, vacant commercial structures that had previously contained the Milpitas Animal Hospital of a little more than 2,000 sq. ft., and development of one, four-story, structure containing 18 residential condominiums and 31 parking spaces and associated landscaping and site improvements.

The Application

The proposed project requires Planning Commission and City Council approval pursuant to Section 57 of the Milpitas Zoning Code for the following planning applications:

- *Site Development Permit*: to allow for new construction
- *Conditional Use Permit*: to allow the condominium use, reduced setbacks and tandem parking
- *Tentative Tract Map*: to allow the subdivision.

PROJECT DESCRIPTION

Overview

The proposed project is located on one parcel totaling approximately 0.4 acres and is bounded by Great Mall Parkway / Capitol Avenue to the north, the Southern Pacific Railroad to the east and South Main Street to the west. The subject property is zoned Multi-Family Residential, Very High Density (R4), and is located within the Transit Area Specific Plan (TASP).

The proposed project includes a four-story, 18-unit residential condominium development located over a one-level shared, parking garage. The site design includes a common, central courtyard area that would contain landscaping open to all floors, under a centrally located sky light. The proposed building would have a maximum roof height of 42 feet with a stairwell enclosure providing access to a rooftop garden and recreation area and tower element that houses the mechanical hoists for the elevator. The stairwell enclosure has a height of 48 feet and the tower element has a height of 59 feet. The residential units would contain one to three bedrooms; each residential unit would be between approximately 920 and 1,222 square feet. See **Table 1** for residential unit specifications.

Table 1: Residential Unit Description		
Number of Bedrooms	Approximate Square Footage (sq. ft.)	Total Number of Unit Type
3	1,211	6
2	929	6
1	922	6
TOTAL	--	18

The proposed project also includes a request for a Conditional Use Permit to allow the condominium use pursuant to Table XI, Chapter 10-4.02-1(4) of the Milpitas Municipal Code. , as well as to allow tandem parking pursuant to City Code Section XI-10-53.07, and reduced setbacks pursuant to Milpitas Municipal Code Table XI-10.57.04-1.

Location and Context

Two vacant structures, a concrete slab and a variety of vegetation currently occupy the site. All existing structures, slabs and vegetation would be removed to accommodate the project. The project site is zoned Multi-Family Residential, Very High Density (R4) within the Transit Area Specific Plan.

Adjacent land uses include the following:

- *North:* Vacant land with temporary structures
- *East:* Union Pacific Railroad right-of-way
- *South:* Retail and commercial use, including restaurants
- *West:* South Main Street and a high-density residential development including an apartment complex and single-family, detached residential units.

PROJECT ANALYSIS

General Plan and Zoning Conformance

General Plan Conformance

The General Plan designation for the project site is Multi-Family, Very High Density (VHD), Very High Density Transit Oriented Residential, which is implemented by the Zoning Code Multi-Family, Very High Density (“R4”) zone (see zoning discussion below). The proposed development conforms to the City’s General Plan land use and development standards. One purpose of this Multi-Family, Very High Density land use designation is to provide community benefits, such as upgrading and/or installing infrastructure, creating a compact urban form, providing a variety of housing, as well as contributing to schools and parks. This designation requires a minimum density of 41 dwelling units per acre and a maximum of 60 units per acre. The proposed project is consistent with the General Plan land use designation and density as shown in **Tables 2 and 3**.

Table 2: General Plan Designations	
Factor	Status
General Plan Designation	Very High Density Transit Oriented Residential
Zoning District	R4- Multi-Family, Very High Density
Site Size	0.4 acres
Present Use	Vacant
Surrounding Zoning	Multi-Family, Very High Density
Access	Site access is from South Main Street

Table 3: General Plan Consistency	
Policy	Consistency Finding
Land Use Principles and Policies 2.a-G-2 Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.	Consistent: The project is utilizing the prescribed allowable density for this designation to promote a compact urban form in close proximity to retail and commercial uses as well as transit corridors.
2.a-G-3 Provide for a variety of housing types and densities that meet the needs of individuals and families.	Consistent: The project includes a variety of housing types by incorporating one, two and three bedroom units into the project.
2.a-G-7 When considering development proposals, seek “community benefit”, such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding contributions to programs.	Consistent: The project would install and upgrade existing infrastructure, public streets and contribute to the public art fund. Rather than providing a public art piece, the applicant has proposed to pay into a public art and affordable housing fund up to \$100,000. Payment into public

	art is required, but payment into affordable housing is not required, which makes this payment a community benefit.
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Transit Area Specific Plan

The project site is centrally located within the Milpitas Transit Area Specific Plan (TASP). The goal of the Transit Area Specific Plan is to transform an older industrial area into a vibrant high-intensity transit-oriented district that would support the residents of the area. Key aspects of TASP include creating residential neighborhoods within each sub-district, creating new park and community amenities, a new network of streets and small blocks, as well as new pedestrian-oriented streets that are woven into the existing industrial street grid. The proposed project meets the goals and intent of the Specific Plan as discussed in **Table 4**.

Table 4: Transit Area Specific Plan Consistency	
Policy	Consistency Finding
Policy 3.3 Affordable housing should be integrated into all residential projects.	Consistent: The project will conform to this policy by providing additional funds to affordable housing functions controlled by the City.
Policy 3.4 Provide a variety of housing types for different types of households, different income levels, different age groups, and different lifestyles.	Consistent: The project includes a variety of housing types by incorporating one, two and three bedroom units into the project.
Policy 3.35 Any development projects, parks, or pedestrian trails built adjacent to a rail line shall build continuous fencing or solid walls to ensure that there will be no pedestrian access to the line. Fencing shall be designed to be vandal-resistant in order to deter trespassing.	Consistent: The project is bounded on the eastern property line by the Southern Pacific Railroad line. In accordance with Policy 3.35, the proposed concrete masonry wall will be vandal-resistant and will be built along the property line in order to block pedestrian access to the tracks as well as mitigate sound. This development will further to increase safe and relatively quiet places for residential areas, as stated on pg. 3-18 of TASP.
Policy 4.60 (MC-C) Break the area into smaller scale blocks that are appropriate to residential development and the desired pedestrian scale for the neighborhood. Block dimensions shall generally be between 300 and 400 feet, and shall never exceed 450 feet.	Consistent: Although not considered a block, the project has a limited street frontage that lends to the concept of pedestrian scale for the neighborhood.

The project meets several of the TASP goals and policies, mentioned above, by developing a vacant and underutilized lot with uses permitted per the General Plan, Transit Area Specific Plan, and zoning code, along a major thoroughfare, South Main Street.

The project site is also located in the McCandless/Centre Point Sub district within TASP, but due to its location within the subdistrict (project site frontage is on South Main Street), it does not have a relationship with McCandless Drive and is not subject to all of the policies for this sub district.

Zoning Conformance

The 0.4-acre project site is zoned Multiple-Family Residential, Very High Density. This zoning allows for a minimum of 41 residential units per acre and a maximum of 60 residential units per acre, as prescribed in Resolution 7760, approved by City Council in June 2008. The Zoning Code also establishes development standards, design requirements, and park, housing, school and public art objectives as discussed below.

Development Standards

Table 5 demonstrates how the proposed project is consistent with the development standards of the Multi-Family Residential, Very High Density (R4) zoning district. The approval of a Conditional Use Permit (CUP) is required to allow a condominium subdivision, as well as allow tandem parking and reduced building setbacks along the rear and side yard.

Table 5: Multi-Family Very High Density District Development Standards (R4)		
Development Standards	Required	Proposed
Lot area minimum	None	0.4 existing acres
Lot width minimum	None	155 feet
Front yard setback minimum	8 min/15 max from back of sidewalk	11 feet
Side yard setback (interior) minimum	10 feet ¹	7.5 Ft. / 5.6 feet/
Rear yard setback minimum	10 feet ¹	4.88 feet
Building height maximum	60 feet, including architectural elements	42 ft
Maximum number of stories	4 Stories	4 Stories
¹ May be reduced upon approval of a Conditional Use Permit, per Milpitas Municipal Code Table XI-10-57.04-1		

Density

The proposed project is consistent with the development densities allowed by the governing General Plan and zoning designations as summarized in **Table 6**. The proposed project would have a density of 45 units/acre (18 units/0.4 acre).

Table 6: Project Land Use Designation and Density Allowance		
	Designation	Density Allowed
TASP	High Density	21 – 40 units/acre ¹

	Transit Oriented Residential ¹	
General Plan	Very High Density Transit Oriented Residential	41 – 60 units/acre (General Plan Land Use Element, as amended by the TASP)
Zoning Map and Ordinance	Multifamily Residential, Very High Density (R4) with a TOD Overlay	31-40 units/acre, 41-60 units/acre with TOD Overlay (Zoning Ordinance Section 12.XI-10-12.06)
¹ The Transit Area Specific Plan (TASP) includes a “Transit Area Plan” (Figure 3.1) that erroneously identifies the land use designation as High Density Transit Oriented Residential, with a density range of 21 – 40 units/acre for the subject property and indicates the property is within a Transit District Overlay area. This error was corrected by subsequent Council action (Resolution No. 7760, Exhibit A) recognizing the correct land use designation.		

The Very High Density Transit Oriented Residential designation in the City’s General Plan establishes a density range to accommodate a variety of housing types, ranging from row houses and townhouses to lofts and stacked flats with structured parking, and allows for increased densities of up to 60 units/acre (see Preface to Land Use Element of the General Plan, page P-1, as amended by the June 2008 adoption of the TASP).

The project aligns with the land use principles for the Milpitas Transit Area, which supports developing the TASP area with high intensity land uses that can take advantage of major public investment in transit (see page 3-2 of the Milpitas Transit Area Specific Plan).

For all the above reasons, staff finds the development density to be consistent with and in support of the Milpitas General Plan, Transit Area Specific Plan, and the Milpitas Zoning Ordinance.

Site & Architectural Design

Site Layout

The subject property is a level, rectangular lot, with 100 feet of frontage along South Main Street to the west, a depth of approximately 155 feet, and a rear property line of 100 feet to the east.

Height

The maximum building height within the R4- Multi-Family, Very High Density is 60 feet or four stories. The applicant is proposing to construct a four story above-ground structure, totaling 42 feet in height, with rooftop access provided by a stairwell enclosure that reaches 52 feet in height, and an elevator enclosure that reaches 59 feet in height.

Setbacks

The project is requesting modifications to the side and rear yard setback requirements of the R-4 District. Staff is recommending that the Planning Commission grant a use permit in accordance

with the requirements of Section XI-10-57.04 of the Milpitas Municipal Code to allow exceptions to the setback requirements in order to develop a quality project that can maximize the existing land without substantially affecting neighboring properties in a negative way. As described in greater detail in the attached Resolution (Attachment A), staff is making this recommendation to allow high-density residential development in an area that supports such use and that is served by infrastructure, utilities and services that are adequate to ensure that the project will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare. Further, the exception is necessary to allow high-density residential development near transit, consistent with the intent of the Specific Plan and the project is otherwise consistent with the Milpitas General Plan, Zoning and Transit Area Specific Plan as summarized in Tables 3, 4 and 5 above.

Building Design, Architecture & Massing

Section B-Building Design, of the Transit Area Specific Plan recommends multi-family structures maintain a strong relationship to the street with primary building entrances oriented toward the street. Exterior walls should contain a consistent style and materials and not include any blank walls. Further recommendations within the Specific Plan include variations in roof heights and vertical planes to reduce the appearance of bulk and create a well-defined base by utilizing thicker walls and richly textured materials. Residential units that face the public streets should include the use of balconies and upper story setbacks.

The main entrance and façade would be set back from South Main Street approximately 10 feet and would incorporate two landscaped areas, totaling approximately 600 square feet and a centrally located garage entry for residents and visitors.

The entry courtyard area will also be substantially landscaped, to include trees, shrubs, ground cover and hardscape (refer to the *Landscaping and Open Space Design* section below for more detail). All proposed residential units would contain approximately 100 square feet of balconies. Exterior design materials include stucco, metallic awnings, and horizontal cement board siding.

Figure 4
Perspectives



Signs

No signs are proposed as part of this project.

Floor Plans

The proposed structure will be approximately 80 feet wide and 122 feet deep and will contain two, one-bedrooms, two, two-bedrooms and two, three-bedrooms on each level, totaling 18 residential units. Each unit will also contain approximately 100 square feet of balcony area. A centrally located landscaped, courtyard and garden open space area, totaling approximately 550 square feet will be located on the second level, above the on-grade garage level and open at all levels above, under a skylight. The project includes a 2,644 square foot, rooftop open-space area to be used as a recreation area and contains plants and seating areas for residents and visitors.

Figure 5
Floor Plan

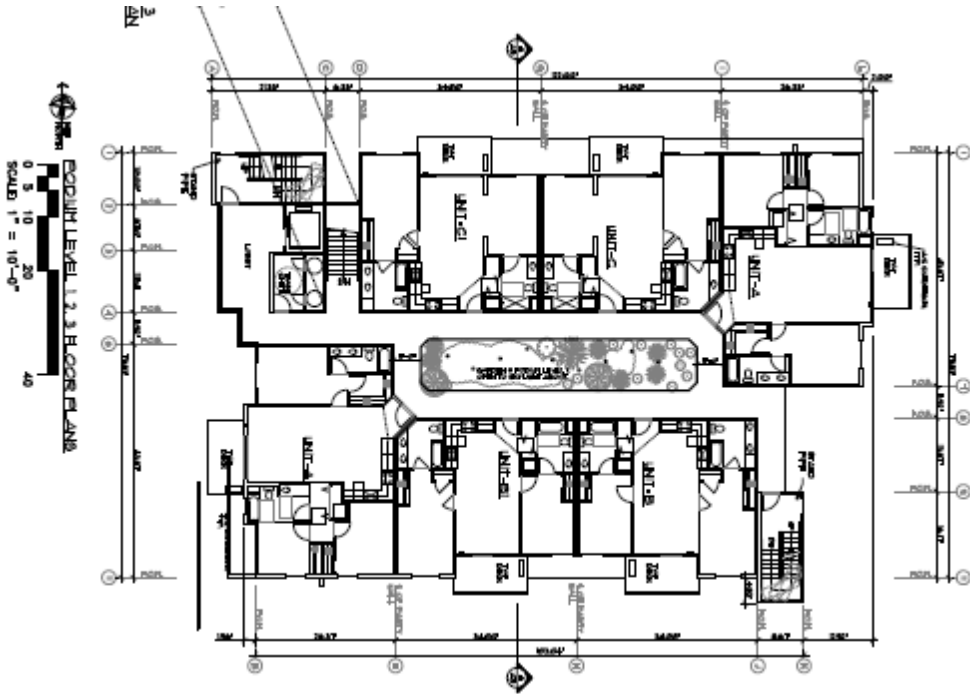
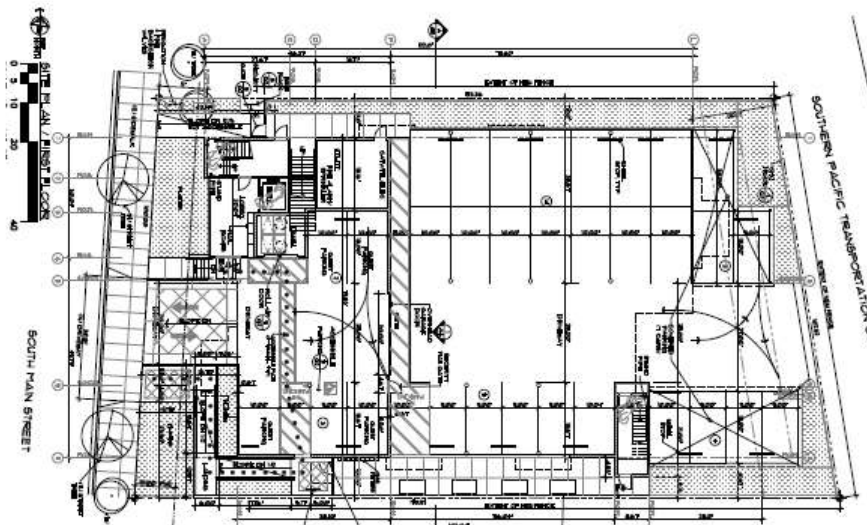


Figure 6
Parking and Entry Level Plan



Pedestrian and automobile entry to the building is located at grade level, on South Main Street, to the west. The garage area includes 31 automobile parking spaces, 16 of which would be tandem parking (see *Parking* section below), requiring the approval of a Conditional Use Permit and 10 bicycle parking spaces. The garage level also contains an enclosed trash area, enclosed utility area, and lobby. The lobby area is approximately 200 square feet and faces South Main Street.

Affordable Housing

The applicant is proposing to construct 18 residential units and is not providing any below market rate units within this project. *Policy 3.6* of the Specific Plan recommends that up to 20% of new residential construction should be affordable. The City of Milpitas adopted the Transit Area Specific Plan that included a goal of creating 20% affordable units within new residential construction.

Resolution No. 8491 subsequently adopted in 2015 clarifies that “affordable housing requirements shall apply to all completely new residential development applications submitted to the City after June 16, 2015.” “Completely new residential development applications” is defined as a residential development project for which no written application of any sort has been previously submitted to the City.

The applicant submitted this application on November 3, 2014 and is, therefore, not subject to the affordable housing requirement of the Specific Plan. Further, the applicant proposes to dedicate approximately \$80,000 (of the \$100,000 total proposed) toward affordable housing and staff is recommending a condition of approval to secure this public benefit.

Schools

Based upon data from the Santa Clara County Office of Education, the Milpitas Unified District currently indicates enrollment to be 10,156 students. Per Enrollment Projection Consultants (EPC), residential development of this nature introduces approximately 1 child for every 7.5 units. Therefore, currently, the proposed project of 18 residential units would potentially add less than 3 new students to the Milpitas School District, which would not have a significant negative impact on the existing school system.

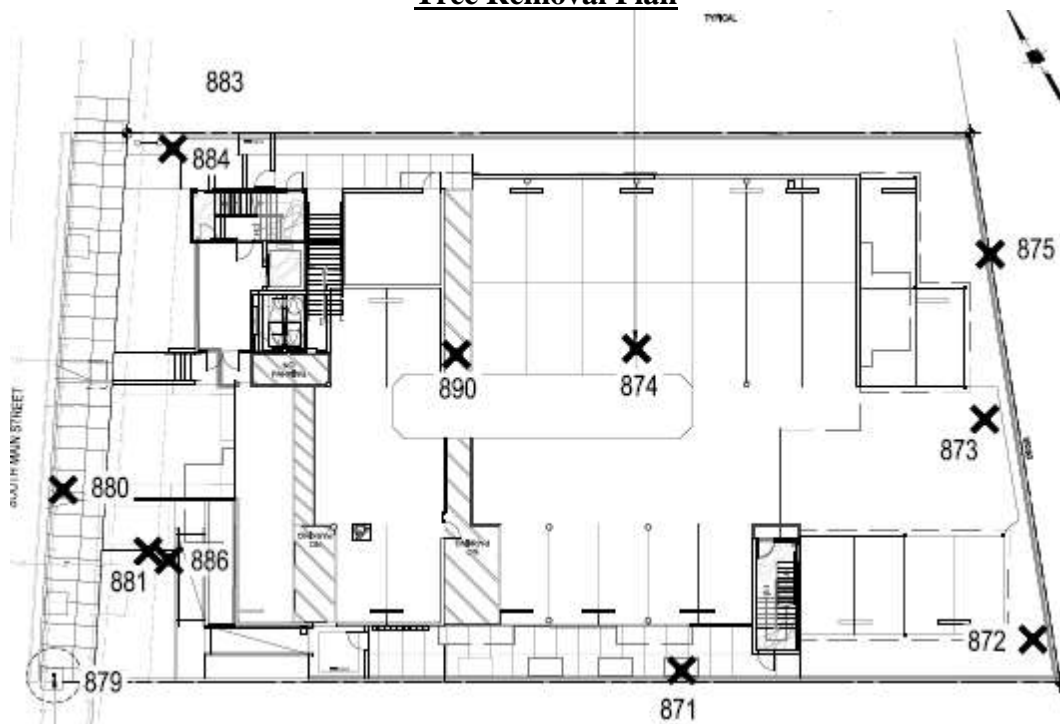
Landscaping and Open Space Design

Tree Removal and Replacement:

The existing site contains approximately 11 mature trees, of which 10 would be removed and replaced with one tree and a variety of large and small shrubs (see *Landscaping and Lighting* below). One existing Frontier Elm tree, located at the front of the project site would remain. **Table 7** and **Figure 7** depict the type, measurements, health, and locations of each existing tree.

Table 7: On-Site Tree Analysis			
Tag #	Common Name	Circumference	Health
871	Peruvian Pepper	107"	Poor
872	Peruvian Silk Tree	67"	Poor
873	Peruvian Pepper	160"	Moderate
874	Peruvian Pepper	184"	Poor
875	Peruvian Pepper	22"	Poor
879	Frontier Elm	10"	Good
880	Frontier Elm	7"	Poor
881	Deodar Cedar	36"	Moderate
884	Peruvian Pepper	78"	Poor
886	Deodar Cedar	46"	Moderate
890	Peruvian Pepper	104"	Poor

Figure 7
Tree Removal Plan

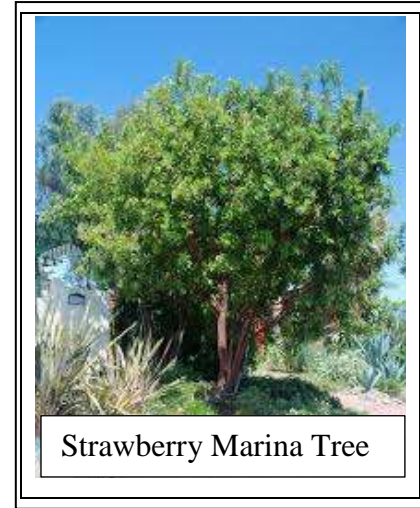


The City of Milpitas recently approved a tree ordinance, safeguarding Protected and Heritage trees. Trees that have a circumference of 37 inches or greater are considered protected trees and should be preserved when possible. The ordinance will take effect in September of 2016 and will be codified in the Municipal Code. This project was submitted prior to adoption of the Tree Ordinance and tree replacement requirements do not apply.

Given development standards that require a minimum residential density, adequate parking and other site improvements, it is difficult to preserve existing vegetation and to provide replacement landscaping. Due to site limitations, the applicant is proposing to replace four trees and proposed landscaping includes installation of large shrubs and other landscape material.

Landscaping and Lighting¹

All landscaping material will be water-wise plants and some will also assist with the required bio-filtration Best Management Practices for storm water runoff on the property. The applicant is proposing to replace one Frontier Elm, to match the existing street tree, along the project frontage on South Main Street and Two Marina and two street trees would be installed, all of which would be in a 36" box size. The project proposes to install approximately 420 plants, including Deer Grass, Purple Hop Bush and Small Cape Rush plants along the perimeter of the property. Proposed shrubs will be range from two feet in height to 12 feet tall.



Pursuant to *Policy 5.5* of the Transit Area Specific Plan, street tree landscaping is recommended along wide boulevards, specifically to improve the visual appearance and pedestrian and bicyclists experience. The landscape installation at this location on the project site would be beneficial in creating a buffer between tenants of the project and vehicular activity and meets the policies of the Specific Plan.

The Planning Commission has historically expressed a desire to have Jacaranda trees installed within larger new development projects as an accent tree. The applicant is amenable to installing the suggested Jacaranda trees, wherever feasible and staff is recommending a condition that would require the applicant to work with City staff to incorporate Jacaranda trees along the project frontage.

¹ Photographs of all landscape material from various on-line websites.

Open Space and Recreation

The project is required to provide a minimum of twenty-five percent (25%) of the total site as usable open space or recreational facilities, per Municipal Code Section XI-10-4.05(D)(1)(c). Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas. The project proposes a 2,644 square-foot roof deck (0.06 acres) with a synthetic turf recreation area, a variety of planters with water-wise vegetation, seating areas for residents and guests and a barbeque area. Each proposed unit would also contain approximately 100 square feet of private balcony or patio for a total of 1,800 square-feet (0.04 acres). In combination, these open space and recreation facilities total of 0.1 acres, or 25% of the site area, to satisfy this requirement.

Parkland Dedication

Residential developments within the Transit Area Specific Plan area are obligated to either provide parkland and recreation facilities, or to pay a Parkland Fee in-lieu of parkland dedication. The Specific Plan requires dedication equivalent to 3.5 acres for every 1,000 residents. The Parkland Fee is based upon the estimated number of persons expected to inhabit the development (per U.S. Census definitions), and the estimated value of parkland in the City of Milpitas (currently \$2,787,840 per acre).

Applicants may receive credit against their parkland obligations through the provision of raw land, payment of fees-in-lieu, credit for turnkey park projects, or a combination thereof. Projects may also receive credit for private recreation elements that are accessible only to project resident, at the sole discretion of the City. If approved, private recreation credit may be used to satisfy up to 43% of the overall parkland requirement. In no instance shall an excess of parkland contributions result in a credit from the City against any fees or other charges due to the City from the Developer.

The project proposes 18 units. The U.S. census estimates that 2.49 persons on average will inhabit each unit resulting in an estimated population of 45 persons. Based on this population estimate, the development's parkland obligation is approximately 0.16 acres or an in-lieu fee of approximately \$437,328. The project proposes to address this requirement through a combination of private recreation space and parkland fees as generally summarized in Table 7 and discussed below.

As set forth in Section XI-1-9 (Park Dedication) of the Milpitas Subdivision Ordinance, a credit for private open space (e.g. roof decks and other similar usable open or recreation space) when properly developed for work, play or outdoor living areas. The project proposes a 2,644 square-foot roof deck (0.06 acres) with a synthetic turf recreation area, a variety of planters with water-wise vegetation, seating areas for residents and guests and a barbeque area. Each proposed unit

would also contain approximately 100 square feet of private balcony or patio for a total of 1,800 square-feet (0.04 acres). Because the rooftop deck provides a viable recreation space for residents that would reduce the demand for public recreation space, and because the private balconies are large enough to be considered useable for private outdoor recreation, staff is recommending that these areas be credited against the projects parkland dedication requirements up to 43% of the required area (0.07 acres). As shown in **Table 8**, the project is able to satisfy the parkland dedication requirements through payment of TASP fees and construction of private recreation.

Table 8: Parkland Requirement Calculations		
Parkland Dedication/In-lieu Fee Analysis	Fee Equivalent	Acre Equivalent
Required Acres or Fees		
Parkland Required (acres)	\$437,328	0.16
Fees Paid		
Parkland Requirements Addressed by TASP Fees	\$270,246	0.10
Parkland Credits		
Private Recreation Credit (\$2,787,840/ acre) (43% Max.)	\$167,082	0.07
Remaining Obligation		
Remaining Obligation	\$0	0.00

Parking

Section **XI-10-53.09** of the Zoning Code requires off-street parking for the proposed residential project. **Table 9** demonstrates the projects' compliance with the parking standards outlined. The applicant is constructing 31 parking spaces, 5 guest parking spaces, and 10 bicycle parking spaces for the proposed structure. Sixteen automobile parking spaces would be tandem. The proposed parking plan requires Planning Commission approval under a Conditional Use Permit to allow for tandem parking. The project is required to install bicycle parking stalls equivalent to 5% of the total parking required for the proposal. The applicant is installing 10 bicycle spaces, 8 more than the minimum required.

The Planning Commission has historically expressed an interest in incorporating electric vehicle charging stations within new developments. The applicant is amenable to installing an appropriate amount of electric vehicle charging stations for this size project. Staff is recommending a condition of approval that would require the applicant to work with City staff to provide appropriate facilities to support electric vehicle charging.

Table 9: Parking Spaces					
Unit Type	Number of Units	Minimum Parking Required	Minimum Spaces Required	Spaces Provided	Conforms (Y/N)
Residential – Multi Family Very High Density R4					

1 BR	6	1.2 per unit	7		Y
2 BR	6	1.6 per unit	10	Tandem	N
3 BR	6	1.6 per unit	10	Tandem	N
<i>SUB-TOTAL</i>			27	31	Y
Guest		15% of required residential spaces	4	5	Y
<i>TOTAL</i>			31	36	Y
Bicycle		5% of required residential spaces	2	10	Y
TOTAL PARKING (including bicycle parking)			32	46	

Tentative Map

The project includes the creation of 18 residential condominium units, and common open space areas, including parking and recreational areas. Tentative Tract Maps require a recommendation from the Planning Commission in the form of a resolution to the City Council for their ultimate approval. The project is consistent with the provisions in Title XI, Chapter 1, Section 4 (Tentative Maps) of the City's Municipal Code regarding the form, content and dedications of the tract map, as set forth in the Attachment A. Pursuant to Section XI-1-4.01-5 of the Milpitas Zoning Code, a condominium and/or condominium conversion Tentative Map is also subject to the approval of a Conditional Use Permit as specified in the Milpitas Zoning Ordinance, Title XI, Chapter 10, and Section 7.14.

Public Art Requirements

Pursuant to Section XI-10-14.03 of the zoning code, residential development projects of 20 or more new dwelling units shall devote an amount not less than one-half of one percent of the building development costs to acquire and install publicly accessible art on the development site. The applicant may demonstrate compliance with this provision at the time of filing the Building Permit application as follows:

- (a) Payment of the full amount of the Public Art Program In-Lieu Contribution, or
- (b) Written proof of a contractual agreement to commission or purchase and to install the requested artwork on the development site by a date approved by City.

Although the project is exempt from this requirement because it contains fewer than 20 units, the applicant has proposed to pay approximately \$20,000 to the public art fund, and staff is recommending a condition of project approval that would secure this public benefit.

FINDINGS FOR APPROVAL

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action. Staff has found that the proposed project is consistent with the General Plan,

Transit Area Specific Plan, Zoning Ordinance, and all required Findings. The findings for approval are identified in detail in Attachment A.

ENVIRONMENTAL REVIEW

Based on examination of the analysis, findings, and conclusions of the TASP EIR, certified by the City in 2008, fully and adequately analyzed the potential environmental impacts associated with the proposed Project. The Project complies with the policies included in the Specific Plan and the Bay Area's Sustainable Communities Strategy, such that CEQA streamlining and exemption provisions apply to the Project. Therefore, in accordance with CEQA Guidelines Sections 15183 and 15332 and California Public Resources Code Section 21155.4, the proposed Project is exempt from further CEQA review because the following findings can be made:

- The Project Consistent with a Community Plan or Zoning: In accordance with CEQA Guidelines Section 15183, no further environmental review of the Project is required;
- The Project Consistent with a Sustainable Communities Strategy.

PUBLIC COMMENT/OUTREACH

Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of publishing this report, there have not been public comments received. A notice was published in the Milpitas Post on September 16, 2016. In addition, 1,627 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also posted on the project site, on the City's Website, www.ci.milpitas.ca.gov, and at City Hall.

CONCLUSION

The proposed project, as modified by recommended conditions of approval, is consistent with the policies and guiding principles identified in the General Plan, the Transit Area Specific Plan and the requirements established by the Municipal Code. The proposed project will contribute towards the City's housing stock, improve a vacant and underutilized lot as well as improve and upgrade a small stretch of South Main Street.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution 16-037 recommending the City Council approve the Site Development Permit No. P-SD14-0021, Conditional Use Permit P-UP14-0022, Tentative Tract Map P-MT14-0005, and Environmental Assessment P-EA16-0007 to allow the construction of 18 residential condominium units on approximately 0.4 acres, to include 16 tandem parking spaces, for a total of 31 parking spaces, within a four-story structure, based on the findings and subject to the Conditions of Approval.

ATTACHMENTS

- A. Resolution 16-037
- B. Plan Set
- C. CEQA Exemption Analysis